IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

WP(C).No. 22640 of 2006(T)

PETITIONER:

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1. DR.V. HARIKUMAR, READER IN COMMERCE
   MAHATMA GANDHI COLLEGE, THIRUVANANTHAPURAM.

2. DR. B. MANMADHAN, READER IN COMMERCE
   V.T.M. N.S.S. COLLEGE, DHANUVACHAPURAM,
   THIRUVANANTHAPURAM.

3. DR.B. VIJAYACHANDRAN PILLAI,
   READER IN COMMERCE, V.T.M. N.S.S. COLLEGE,
   DHANUVACHAPURAM, THIRUVANANTHAPURAM.

BY ADV. SRI.S.MUHAMMED HANEEFF

RESPONDENTS:

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1. DEPUTY DIRECTOR OF COLLEGIATE
   EDUCATION, KOLLAM.

2. DIRECTOR OF COLLEGIATE EDUCATION,
   THIRUVANANTHAPURAM.

3. STATE OF KERALA, REP. BY ITS
   SECRETARY TO GOVERNMENT, HIGHER EDUCATION
   DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. T.T. MUHAMMED.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/12/2006, ALONG WITH WPC NO. 22639 OF 2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.22640/2006.

APPENDIX

PETITIONER'S EXTS:

EXT. P1 : TRUE COPYOF THE ORDER NO.AC.FII/1/10146/99 DT. 16.7.1999 ISSUED BY THE KERALA UNIVERSITY TO THE 1ST PETITIONER.

EXT. P2 : TRUE COPY OF THE ORDER NO.AC/FII/15741/98 DT. 21.12.1998 ISSUED BY THE KERALA UNIVERSITY TO THE 2ND PETITIONER.

EXT. P3 : TRUE COPY OF THE ORDER NO.AC/FV/3279/99 DT. 12.4.1999 ISSUED BY THE KERALA UNIVERSITY TO THE 3RD PETITIONER.

EXT. P4 : TRUE COPY OF THE ORDER NO.V.20911/99 DT. 13.9.1999 ISSUED BY THE KERALA UNIVERSITY TO THE 1ST PETITIONER.

EXT. P5 : TRUE COPY OF THE ORDER NO.AC.FII/2/07058/99 DT. 21/5.1999 ISSUED BY THE KERALA UNIVERSITY TO THE 2ND PETITIONER.

EXT. P6 : TRUE COPY OF THE ORDER NO.AC.FII/2/011756/99 DT. 18.8.1999 ISSUED BY THE KERALA UNIVERSITY TO THE 3RD PETITIONER.

EXT. P7 : TRUE COPY OF THE ORDER NO.AC.FI/UGC/2427/00 DT. 26.5.2006 ISSUED BY THE 1ST RESPONDENT TO THE 1ST AND 2ND PETITIONERS.

EXT. P8 : TRUE COPY OF THE ORDER NO.AC.FI/UGC/3228/06 DT. 23.6.2006 ISSUED BY THE 1ST RESPONDENT TO THE 3RD PETITIONER.

EXT. P9 : TRUE COPY OF THE JUDGMENT DT. 28.3.2005 IN W.A. NO.2235/2004 ON THE FILE OF THE DIVISION BENCH OF THIS HON'BLE COURT.

EXT. P10 : TRUE COPY OF THE JUDGMENT DATED 25.8.2003 IN W.P. NO.23870 OF 2003 ON THE FILE OF THIS HON'BLE COURT.

EXT. P11 : TRUE COPY OF THE JUDGMENT DT. 30.6.2005 IN W.P.(C) 19589 OF 2005 ON THE FILE OF THIS HON'BLE COURT.

EXT. P12 : TRUE COPY OF THE ORDER DATED 22.11.2005 ISSUED BY THE DDCE, KOLLAM TO ONE DR. PADMA RAO & ANOTHER.

RESPONDENT'S EXTS:

EXT. R1(a) : RELEVANT PORTION NOTED IN THE GOVERNMENT ORDER PARA 4.04.

EXT. R1(b) : ORDER CLAUSE V DEALS WITH CAREER ADVANCEMENT.

EXT. R1(c) : G.O.(P) NO.44/01H.EDN. DATED 29.3.2001.

K.M.JOSEPH, J.

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WP.(C) Nos.22639 & 22640 OF 2006

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Dated this the 8th day of December, 2006

JUDGMENT

Common questions arise in these writ petitions, and they are being disposed of by a common judgment.

2. Petitioners were appointed as Lecturers. They were later on placed in the Senior Scale and it was also approved. Finally they were placed in the Selection grade. Petitioners have acquired Ph.D prior to 1.1.1996. In implementation of UGC Scheme, Government issued orders. In terms of the said order persons who have Ph.D, M.Phil are entitled to two advance increments. The claim of the petitioners have been rejected by Exts. P7 and P8 in W.P.(C) 22640 of 2006. Therein two reasons are given. Firstly in Ext.P7 it is stated that Government had not issued any general orders to grant two advance increments to those who acquired Ph.D prior to 1.1.1996. Further it is stated in Ext.P2 that two advance increments shall not be admissible to teachers, who were recruited/promoted to the post for which Ph.D is an essential qualification. More or less the same reasoning was in Ext.P8. In

Ext.P8 it is also stated that SLP is filed against the judgment of the High Court.

3. In W.P.(C) 22639 of 2006 the impugned order is Ext.P2. In Ext.P2 the only reason stated is that the Government has not issued any general orders to grant advance increments to those who acquired Ph.D prior to 1.1.1996.

4. Counsel for the petitioner would contend that the reasons given in the impugned order are unsustainable having regard to the decision of this court in W.A. 1044 of 2005 and connected matters.

5. I heard learned Government Pleader also. In W.P.(C) 22640 of 2006 a counter affidavit is filed making an attempt to set up a new case. The contention taken is that as per Ext.R1(c) under Clause 4 thereof, petitioners would be enjoying the benefit of two advance increments over and above the relaxation in service obtained by them in the matter of moving into the senior scale and selection grade on the basis of their possessing Ph.D and it is therefore not permissible. On a perusal of Clause 6.18 it would be very clear that it has got nothing to do with relaxation in the matter of the number of years required/granted

to Ph.D holders. Therefore I find that the said contention is untenable. As far as the objection found in the impugned orders, it is clear that having regard to the judgment of the Division Bench, they cannot be sustained.

In such circumstances, the impugned orders Exts.P7 and P8 in W.P.(C) 22640 of 2006 and Ext.P2 in W.P.(C) 22639 of 2006 are quashed and the first respondent will reconsider the matter bearing in mind the decision of the Division Bench of this court in W.A. 1044 of 2005 and connected matters, and take a decision afresh in accordance with law within a period of two months from the date of receipt of a copy of this judgment.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.